

Bill No. 31-01  
Concerning: Moderately Priced  
Dwelling Units - Amendments  
Revised: 11-2-01 Draft No. 3  
Introduced: September 11, 2001  
Enacted: November 6, 2001  
Executive: November 19, 2001  
Effective: February 18, 2002  
Sunset Date: None  
Ch. 25, Laws of Mont. Co. 2001

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Berlage, Silverman, Denis, and Praisner

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**AN ACT** to:

- (1) revise certain provisions of law regulating the sale and resale of moderately priced dwelling units; and
- (2) generally amend the law governing moderately priced dwelling units.

By amending

Montgomery County Code  
Chapter 25A, Housing, Moderately Priced  
Sections 25A-3, 25A-8, and 25A-9

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 25A-3, 25A-8, and 25A-9 are amended as follows:**

**25A-3. Definitions.**

The following words and phrases, as used in this Chapter, have the following meanings:

\* \* \*

(g) *Control period* means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits, as provided in Section 25A-9. The control period is 10 years for sale units and 20 years for rental units, and begins on the date of initial sale or rental. If a sale or rental MPDU is sold to an eligible person within 10 years after its initial sale or rental, and if (in the case of a sale MPDU that is not bought and resold by a government agency) the unit was originally offered for sale after March 1, 2002, the unit must be treated as a new sale MPDU and a new control period must begin on the date of the sale.

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**25A-8. Sale or rental of moderately priced dwelling units.**

\* \* \*

(b) Department of Housing and Community Affairs, Housing Opportunities Commission or other designated housing development agency or corporation.

(1) In view of the critical, long-term public need for housing for families of low and moderate income, the Department, the Commission, or any other housing development agency or nonprofit corporation designated by the County Executive [has the option to] may buy or lease, for its own programs or programs administered by it, up to 40 percent of all MPDUs

which are not sold or rented under any other federal, state, or local program. The Department or Commission may buy or lease [upon] up to 33 percent of the MPDUs not sold or rented under any other federal, state, or local program. Any other designated agency or corporation may buy or lease (A) any MPDU[s] in the first 33 percent that HOC has not bought or leased, and (B) the remainder of the 40 percent. This option may be assigned to persons of low or moderate income who are eligible for assistance under any federal, state, or local program identified in regulations adopted by the [County] Executive. The [County] Executive must, by regulation, adopt standards and priorities for designating nonprofit corporations under this subsection. These standards must require the corporation to demonstrate its ability to operate and maintain MPDUs satisfactorily on a long-term basis.

- (2) The Department must notify the Commission or other designated agency or corporation promptly after receiving notice from the applicant under subsection (a) of the availability of MPDUs. If the Department, the Commission, or any other designated agency or corporation exercises its option, it must submit to the applicant, within 21 calendar days after the Department notifies the Commission under subsection (b), a notice of intent to exercise its option for specific MPDUs covered by this option. Any MPDUs not bought or leased under this subsection must be sold or rented only to eligible persons under subsection (b) during the priority marketing period for eligible persons to buy or lease.
- (3) In exercising this option, the Department, the Commission, and

any designated agency or corporation must designate the units by reference to number, type, size and amenities of the units selected if the designation does not result in any [one] type of unit exceeding by more than 40 percent the total units of that type which are sold or rented under this Section, unless the applicant agrees otherwise. The notice required under subsection (b)(2) must state which MPDUs are to be offered for sale and which are to be offered for rent, and the Department, the Commission, and any designated agency or corporation may buy only units which are offered for sale and may lease only units which are offered for rent. The Department, the Commission, and any designated agency or corporation must decide whether it will exercise its option within 45 days after it receives the original notice.

**25A-9. Control of rents and resale prices; foreclosures.**

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(b) *Resale requirements during the control period.*

- (1) Any MPDU offered for resale during the control period must first be offered exclusively for 60 days to the Department and the Commission, in that order. The Department or the Commission may buy a unit when funds are available; [[and]] The Department may buy a unit when the Director finds that the Department's or a designated agency or corporation's buying and reselling the unit will increase opportunities for eligible persons to buy the unit. If [[it]] the Department or the Commission does not buy the unit, the Department must notify eligible persons [[and the Commission]] of the availability of a resale MPDU. The unit may be sold through either of the following methods:

- (A) The Department may by lottery establish a priority order under which eligible persons who express interest in buying the unit may buy it at the approved resale price.
- (B) The Department may notify the MPDU owner that the owner may sell the unit directly to any eligible person under the resale provisions of this Chapter.
- (2) A resale MPDU may be offered for sale to the general public only after:
- (A) the priority marketing period expires; and
- (B) all eligible persons who express an interest in buying it have been given an opportunity to do so.
- (3) The Executive by regulation may adopt requirements for reselling MPDUs. The regulations may require a seller to submit to the Department for approval:
- (A) a copy of the proposed sales contract, including a list and the price of any personal property included in the sale;
- (B) a signed copy of the settlement sheet; and
- (C) an affidavit signed by the seller and buyer attesting to the accuracy of all documents and conditions of the sale.
- (4) A transfer of an MPDU does not comply with this Chapter until all required documents and affidavits have been submitted to and approved by the Department.
- (c) *First sale after control period ends.*
- (1) If an MPDU originally offered for sale or rent after March 21, 1989, is sold or resold after its control period ends, upon the first sale of the unit the seller must pay to the Housing Initiative Fund one-half of the excess of the total resale price over the sum of the

following:

- (A) The original selling price;
- (B) A percentage of the unit's original selling price equal to the increase in the cost of living since the unit was first sold, as determined by the Consumer Price Index;
- (C) The fair market value of capital improvements made to the unit between the date of original sale and the date of resale; and
- (D) A reasonable sales commission.

The Director must adjust the amount paid into the fund in each case so that the seller retains at least \$10,000 of the excess of the resale price over the sum of the items in (A)--(D).

- (2) The Director must find that the price and terms of a sale covered by subsection (c)(1) are bona fide and accurately reflect the entire transaction between the parties so that the full amount required under subsection (c)(1) is paid to the fund. When the Director finds that the amount due the fund is accurate and the Department of Finance receives the amount due, the Department must terminate the MPDU controls and execute a release of the restrictive covenants.
- (3) The Department and the Commission, [has] in that order, [[have the right for 30 days after the offer is made to match any bona fide offer to]] may buy an MPDU the first time the MPDU is offered for sale after 10 years after the original sale or rental, and may resell the unit to an eligible person. A resale by the Department or Commission starts a new control period.
- (4) The Commission and any partnership in which the Commission

is a general partner need not pay into the Housing Initiative Fund  
any portion of the resale price of any MPDU that it sells after 10  
years after the original sale or rental.

\* \* \*

(g) Bulk transfers. This section does not prohibit the bulk transfer or sale of  
all or some of the sale or rental MPDUs in a subdivision within 20 years  
after the original rental or offering for sale if the buyer is bound by all  
covenants and controls on the MPDUs.

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*Approved:*

/S/

November 8, 2001

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Blair G. Ewing, President, County Council

Date

*Approved:*

/S/

November 19, 2001

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Douglas M. Duncan, County Executive

Date

*This is a correct copy of Council action.*

/S/

November 20, 2001

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Mary A. Edgar, CMC, Clerk of the Council

Date